

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CONSTANCE WILSON ANDRESEN, : CIVIL ACTION NO. 1:20-CV-989

:
Plaintiff : (Judge Conner)

:
v.

**COMMONWEALTH OF
PENNSYLVANIA, et al.,**

:
Defendants :

ORDER

AND NOW, this 29th day of March, 2021, upon consideration of the report (Doc. 42) of Magistrate Judge Martin C. Carlson, recommending that the court grant the motion (Doc. 26) to dismiss filed by defendants the Commonwealth of Pennsylvania and Pennsylvania State Police Corporal Jonathan Thomas, and dismiss the complaint (Doc. 1) of *pro se* plaintiff Constance Wilson Andresen with prejudice as to the Commonwealth on the ground of sovereign immunity, and with prejudice as to Andresen's claims for malicious prosecution and false arrest against Thomas based on the favorable-termination rule established in Heck v. Humphrey, 512 U.S. 477 (1994), but further recommending that the court grant leave to amend to the extent Andresen alludes to a potential excessive force claim against Thomas in her Rule 12 briefing, and the court noting that Andresen has filed a "reply opposition" to the report, (see Doc. 52), which we construe as an objection, see FED. R. CIV. P. 72(b)(2), and following *de novo* review of the contested portions of the report, see E.E.O.C. v. City of Long Branch, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)), and affording "reasoned consideration" to the uncontested

portions, *id.* (quoting Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987)), the court finding Judge Carlson's analysis to be well-reasoned and fully supported by the applicable law, and finding Andresen's objection to be without merit, it is hereby ORDERED that:

1. Magistrate Judge Carlson's report (Doc. 42) is ADOPTED.
2. The Commonwealth defendants' motion (Doc. 26) to dismiss is GRANTED. Andresen's complaint is DISMISSED with prejudice as to the Commonwealth of Pennsylvania and as to Andresen's claims for malicious prosecution and false arrest against Thomas.
3. Andresen is GRANTED leave to amend her complaint in accordance with Judge Carlson's report within 30 days of the date of this order. Any amended pleading filed pursuant to this paragraph shall be filed to the same docket number as the instant action, shall be entitled "First Amended Complaint," and shall be complete in all respects. It shall be a new pleading that stands by itself as an adequate complaint under the Federal Rules of Civil Procedure, without reference to the complaint (Doc. 1) hereinabove dismissed.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania